



**HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD**

June 24, 2015

Attendance:

Board Members:

Lynn Moore, Chair
Rickey Bauer, Vice Chair
Jamie Brown
Howie Feaga
Ann Jones
Denny Patrick

Public:

Patricia Strader Reed
Randall Reed

Staff:

Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor, Office of Law
Beth Burgess, Chief, Resource Conservation Division
Mary Smith, Secretary, Agricultural Land Preservation Program

Ms. Moore called the meeting to order at 7:10 p.m. and conducted introductions.

Action Items

1) Minutes from the March 23, 2015 – Ms. Moore called for approval of the March 23, 2015 meeting minutes. Mr. Feaga moved to approve. Ms. Jones seconded the motion, which passed unanimously.

2) Minutes from the May 27, 2015 – Ms. Moore called for approval of the May 27, 2015 meeting minutes. Ms. Jones moved to approve. Mr. Feaga seconded the motion, which passed unanimously.

3) Request for Recommendation on Easement Acquisition, Strader property, 58 acres; (ALPB) - Ms. Levy read the staff report, stating that the applicant was present on behalf of herself, her brother and their mother, the three owners of the property. Ms. Levy stated that Ms. Strader Reed has power of attorney for her mother, Madeline. She noted this 58+ acre farm is located on the north side of Rt. 70, east of Rt. 94 and is leased out with a corn, wheat, and soybean farming rotation. The property has a high percentage of tillable land, most of which is being farmed. According to the Howard Soil Conservation District, there is a current Soil Conservation and Walter Quality Plan in effect that is fully implemented. There is a relatively high concentration of preserved land within a mile. The property is improved with a principal dwelling that is rented out, and an old bank barn that is currently not in use.

Ms. Levy stated that the application meets all eligibility criteria for acquisition of an agricultural preservation easement and recommended approval.

Ms. Moore called for questions and comments.

Mr. Feaga inquired about the separate parcel of land adjacent to the farm. Ms. Strader Reed stated that it was deeded by her grandparents to her parents in 1975. There was also discussion about the property to the east and who the various owners have been over time.

Mr. Feaga moved to approve the acquisition, which was seconded by Ms. Jones. The motion carried unanimously.

4) Request for Approval, Forest Conservation Planting, Reuwer Property, 53 acres (ALPB) – Ms. Levy read the staff report, stating that Megan Reuwer is the owner of this 53 acre property which is located on the east side of Manor Lane, north of Rt. 108. The Scriveners placed the property in the program in 1988. The request is to plant a forest conservation bank. Ms. Levy referred to several aerial maps, the development plan provided by Fisher, Collins & Carter (FCC) and the Forest Conservation Planting (FCP) policy to explain the request. She noted that the applicant is proposing to plant 1.778 acres. The only FCP condition that applies to the planting area is 25% or greater steep slopes. She noted that when the request was initially submitted, it included about 4 contiguous acres but none of the FCP features were delineated. She informed FCC that the plan needed to show which policy conditions were being satisfied by the proposal. The revised version, as seen here, included a reduced amount of acreage that met the steep slopes condition, but which created the unusual configuration of the two horseshoe shaped areas that face each other.

Ms. Levy stated that her recommendation, based on the proposal technically meeting the FCP, is for approval.

Ms. Jones referred to the FCP and noted the provision that the plantings must allow for the efficient operation of farm machinery. She stated that there is no way that farm machinery could operate in and around the proposed area. She stated that from the aerial it looks like the area was in pasture or being farmed, so she can't figure out the location of the 25% slope.

Ms. Levy said it is her understanding that the slope area is a berm that was recently created. Various members expressed their concern with the fact that the berm was allowed to be built, and also with the applicant now seeking approval to use it for forest conservation mitigation.

Ms. Jones motioned for denial. Mr. Brown seconded.

Mr. Feaga asked where the dirt came from, expressing his opinion that he'd be more opposed to the current proposal if it came from offsite. Ms. Levy stated that she didn't know for certain and other members speculated about its source.

Mr. Feaga stated that the berm would be considered highly erodible. Other members agreed, but stated the applicant brought that problem upon themselves by building the slope in the first place.

Ms. O'Brien reminded the Board that there is a motion on the floor. The Board members indicated that they wanted to continue discussion.

There were lots of questions about how the berm was allowed to be created and when the berm was built. Ms. Levy attempted to answer their questions, stating that she personally was not happy that the berm was allowed to be built, but there was nothing to prevent the owner from constructing it. The applicant was able to get a Sediment and Erosion Control (SEC) plan approved by the Soil Conservation District. Although DPZ thought the amount of berming was excessive and expressed this to the owner, ultimately the Department didn't oppose it. Ms. Levy read an email from the file stating her personal concern to the owner that the SEC approval didn't necessarily mean that the berm is consistent with the Soil Conservation Plan, which is required under the easement. She advised the owner to contact the District and update the Plan, which they said they would. It appears the owners haven't complied with Ms. Levy's request.

Ms. Levy stated that she is not certain when the berm was created but she believes it is fairly recent since its purpose is to buffer the current property owner from the property to the north, which has opened a brewery operation in an existing barn. Ms. Reuwer acquired the farm in 2013. Board members questioned why the aerial map in the staff report doesn't show the berm and she stated that those maps were last updated in 2009.

Ms. Levy stated that when the current proposal came in, she had to consider it without taking the berm's existence into account, because the berm was already in place and the proposal had to be reviewed on its own merits.

Mr. Bauer inquired about the ownership history and the various requests that the Board has reviewed over time. Ms. Levy responded that the owner prior to Ms. Reuwer received approval in 2007 for a principal dwelling and a tenant house. One house was built, which she is assuming is the house that Ms. Reuwer is residing in.

Mr. Feaga concluded that they shouldn't be allowed to receive payment for forest conservation on a man-made berm built on a productive field. If they want to plant trees, that's their decision, but they shouldn't be able to get paid to do so.

Once Ms. Moore confirmed that there was no further discussion, she called for a vote on the motion to deny the Forest Conservation Planting proposal. The motion for denial of the request was unanimously approved.

5) Request for Approval, Amendments to Section 15.518 of the Howard County Code (ALPB) – Ms. Moore noted that some Board members haven't had much time to review the recommended amendments. Ms. Levy reminded her that they've had the language for several months and encouraged them to move it forward. She stated that she and Ms. O'Brien have listened to their concerns for a long time and have incorporated them into the amendments. But she stated that it's up to them how fast they want to get the changes through the legislative process. Ms. Levy stated that Mr. Feaga is the only member who provided comments and that she has addressed them all. So the version before them is ready for their approval, if they are so inclined.

Ms. Jones inquired about involvement in nuisance complaints. Ms. Levy stated that she removed the language, which was in a previous version. This was one of the recommendations that Mr. Feaga had made.

There was some discussion about whether the Board should have reviewed a situation like the previous request.

Ms. Moore questioned the ability of Board members to participate in the comprehensive rezoning process (Comp Zoning). She stated her opinion that being involved would give the Board more of an opportunity to have an impact on the uses permitted on preserved ground. Mr. Feaga stated that he appreciated the various meetings that DPZ conducted in the Rural West during the most recent Comp Zoning seeking input from the farmers, but that may not have been enough to fully represent the ag community's needs. Ms. Levy stated that one thing to consider is that the General Plan always precedes Comp Zoning, and the Plan is the overarching policy document. So the Board needs to think about whether they would want to be involved in the General Plan process as well.

Ms. O'Brien pointed out the language in item #4 that gives the Board the power to review and make recommendations on ALPP policy and agricultural policy in general. Ms. Levy added that item #5 empowers the Board to serve in an advisory capacity to DPZ on ag issues, including the evaluation of uses and/or reported violations. She stated that between these two provisions the Board is given a fair amount of latitude and it may not be necessary to specifically mention the General Plan or Comp Zoning in Section 15.518.

Ms. Jones moved for approval of staff's amendments, as is, to Section 15.518 of the Howard County Code, seconded by Mr. Bauer.

Ms. Moore questioned the language in item #4 regarding Ms. Levy's role as Executive Secretary in moving policies forward. Ms. Levy explained that typically Board recommendations come to her. Depending on the issue, it can be dealt with at her level, or she will elevate it higher up in the Administration if necessary. She stated that the more technical aspects of the program, for example the creation or refinement of policies such as Forest Conservation Planting, can be completed between the Board and staff. She noted that in the last couple of years, there has been a significant uptick in the issues that require input and/or decision making much higher up in the Administration than her level. In those cases, she has been a conduit between the Board and the Administration. She stated that item #5 gives the Board access to a wider range of decision makers, in addition to more breadth of responsibility.

Mr. O'Brien confirmed what Ms. Levy noted, then stated that in addition to their role as Board members, they are also citizens and can always contact their elected officials in that capacity.

Ms. Moore called for a vote on the previous motion to approve the amendments to Section 15.518 of the Howard County Code as presented. The motion carried unanimously.

Ms. Levy informed the Board of the remaining process for approval, stating that the County Executive and the County Council must both review and approve. Ms. O'Brien noted that both could make amendments.

Marsha McLaughlin arrived to bid farewell to the Board in light of her imminent retirement. The Board thanked her for all of her efforts and then engaged her in a long conversation regarding their potential expanded role and the complaints coming into DPZ about various farming operations. Ms. McLaughlin asked the Board members who met with the County Executive whether he was receptive to the Board having a more active role and they reported that he is.

Discussion Items

- 1) Program updates** – Ms. Levy reported that there are several properties in various stages of the acquisition process. She noted that the Carroll property is being pre-filed this week for Council introduction next month.
- 2) Presentation and review of Board's new Guide Book** – Ms. Levy and Ms. Burgess distributed a copy of the new ALPB Reference Binder to each member and provided a review of the various sections within it. Ms. Levy stated that this effort was in response to the suggestions made by Board members at the previous meeting regarding the need for more information about ALPP basics, especially for new members.

Ms. Jones moved to adjourn the meeting, which was seconded by Mr. Feaga and carried unanimously. The meeting adjourned at 8:28 pm.

Joy Levy, Executive Secretary
Agricultural Land Preservation Board